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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,291	03/26/2004	Diane Lambert	10-1	2183
7590 07/01/2005 Ryan, Mason & Lewis, LLP 90 Forest Avenue Locust Valley, NY 11560			EXAMINER WACHSMAN, HAL D	
			ART UNIT 2857	PAPER NUMBER

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/811,291	Applicant(s) LAMBERT ET AL.	
	Examiner Hal D. Wachsman	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 15, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 6-14 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3-26-04</u> . | 6) <input type="checkbox"/> Other: _____  |

1. The last 2 lines of page 6 of the specification state "...Thus, no particular step should be viewed as being a requirement of the invention." However, there is some confusion here as if a step or steps of the claimed method is needed to practice the claimed invention as to how that cannot be a requirement of the invention. Appropriate explanation/correction is required.
2. Claims 1-20 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The last 2 lines of claim 1 state "periodically updating the set of parameters to take into account one or more of the data values" which does not particularly point out how exactly the one or more data values are taken into account. This same type of problem also occurs in claims 19 and 20. Claim 3 cites "...wherein the set of parameters comprises at least a mean and a variance for the reference distribution of the data values" however the use of "at least a" here creates ambiguity with respect to what else the set of parameters may comprise. This same type of problem also occurs in claims 9, 16 and 17. The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 15, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hatonen et al. (WO 02/21774 A1).

As per claim 1, Hatonen et al. (Abstract, page 15 lines 9-21, page 37 lines 23-34, page 38 line 1) disclose “computing from a given one of the data values a corresponding probability value, utilizing the set of parameters characterizing the reference distribution”. Hatonen et al. (Abstract, page 19 lines 9-15) disclose “performing a thresholding operation on the probability value”. Hatonen et al. (Abstract, page 19 lines 18, 19, pages 37 lines 33, 34, page 38 lines 1, 2) disclose “generating alarm information based on the result of the thresholding operation”. Hatonen et al. (Abstract, page 18 lines 8-16) disclose “periodically updating the set of parameters to take into account one or more the data values”.

As per claim 2, Hatonen et al. (Abstract, page 3 lines 26-34, page 4 lines 1-5, page 18 lines 31-33, page 19 lines 1-7) disclose the feature of this claim.

As per claim 15, Hatonen et al. (Abstract, page 15 lines 9-21, page 37 lines 30-32) disclose the feature of this claim.

As per claim 19, Hatonen et al. (Abstract, figures 1, 6) disclose “a memory for storing the set of parameters”. Hatonen et al. (Abstract, figures 1, 6, page 16 lines 5-9) disclose “a processor coupled to the memory...to control operations associated with the monitoring of the data values, the operations..”. Hatonen et al. (Abstract, page 15 lines 9-21, page 37 lines 23-34, page 38 line 1) disclose “computing from a given one of

the data values a corresponding probability value, utilizing the set of parameters characterizing the reference distribution". Hatonen et al. (Abstract, page 19 lines 9-15) disclose "performing a thresholding operation on the probability value". Hatonen et al. (Abstract, page 19 lines 18, 19, pages 37 lines 33, 34, page 38 lines 1, 2) disclose "generating alarm information based on the result of the thresholding operation". Hatonen et al. (Abstract, page 18 lines 8-16) disclose "periodically updating the set of parameters to take into account one or more the data values".

As per claim 20, Hatonen et al. (Abstract, page 15 lines 9-21, page 37 lines 23-34, page 38 line 1) disclose "computing from a given one of the data values a corresponding probability value, utilizing the set of parameters characterizing the reference distribution". Hatonen et al. (Abstract, page 19 lines 9-15) disclose "performing a thresholding operation on the probability value". Hatonen et al. (Abstract, page 19 lines 18, 19, pages 37 lines 33, 34, page 38 lines 1, 2) disclose "generating alarm information based on the result of the thresholding operation". Hatonen et al. (Abstract, page 18 lines 8-16) disclose "periodically updating the set of parameters to take into account one or more the data values".

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatonen et al. (WO 02/21774 A1) in view of Pruitt et al. (6,597,907).

As per claim 3, Pruitt et al. (col. 8 lines 19-45, col. 9 lines 12-60, col. 10 lines 34-42) teach the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Pruitt et al. to the invention of Hatonen et al. as specified above because as taught by Pruitt et al. (col. 8 lines 22-25) Poisson or Binomial distributions have predictable relationship(s) between the mean and variance.

As per claim 4, Pruitt et al. (col. 8 lines 21-23) teach the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Pruitt et al. to the invention of Hatonen et al. as specified above because as taught by Pruitt et al. (col. 8 lines 22-25) Poisson or Binomial distributions have predictable relationship(s) between the mean and variance.

As per claim 5, Pruitt et al. (col. 8 lines 21-23) teach the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Pruitt et al. to the invention of Hatonen et al. as specified above because as taught by Pruitt et al. (col. 8 lines 22-25) Poisson or Binomial distributions have predictable relationship(s) between the mean and variance.

7. Claims 6-14 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and subject to the appropriate correction of the 37 C.F.R. 1.75(a) objections noted in paragraph 2 above.

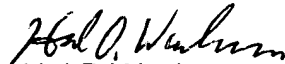
8. The following references are cited as being art of general interest: Chirashnya et al. (US 2002/0019870 A1) which disclose proactive on-line diagnostics in a manageable network, Berry (5,668,944) which discloses performance diagnosis of a computer system, Valins et al. (US 2003/0064720 A1) which disclose generating communication network performance alarms, Grace (5,748,098) which discloses event correlation and Hripcsak (5,555,191) which discloses an automated statistical tracker.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D. Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2857

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Hal D Wachsman  
Primary Examiner  
Art Unit 2857

HW  
June 26, 2005





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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10-811291

EXAMINER
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ART UNIT	PAPER
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Commissioner for Patents

Hal D Wachsman  
Primary Examiner  
Art Unit: 2857